IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 446 of 1989

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HITESH PURUSHOTTAMBHAI KANITKAR - Appellant(s)
Versus
ASHOK SAVAILAL DHOLAKIA & 2 - Defendant(s)

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Appearance :
MR CH VORA for Appellant(s) : 1,
None for Respondents : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 11/07/2007

ORAL JUDGMENT

Shri C.H. Vora, learned counsel for the appellant; none for the respondents though served.

2. The appellant, being partly aggrieved by the award dated 8.6.88 passed by the learned Member, M.A.C.Tribunal [Aux.] Kutchchh at Bhuj, is before this Court with a prayer for enhancement of the compensation awarded by the Tribunal. As none appears for the other side, I will presume that the correctness of the findings relating to the accident, rashness, negligence and liability of the respondents is not under challenge.

3. Shri Vora, learned counsel for the appellant, after taking me through the evidence submits that present is a case where a young boy of 15 years suffered multiple fractures of tibia and fibula and had to undergo pain, shock and suffering for long many months; the Tribunal was unjustified in awarding a sum of Rs. 9,000/- only under the head of pain, shock and suffering. He also submits that the Tribunal erred in not awarding the attendance charges and also erred in awarding a sum of Rs. 1,000/- towards medicine and special diet, specially in case like present where the facts would show that the insured had suffered for long time and

had to go on special diet.

4. The learned Tribunal had awarded a sum of Rs.9,000/- under the head of pain, shock and suffering and awarded a sum of Rs. 1,000/- only under the head of medicines, special diet etc.

5. Taking into consideration the nature of the injuries suffered by the claimant, I think that he must be awarded a sum of Rs. 15,000/- under the head of pain, shock and suffering. He must also get a sum of Rs. 1200/- towards the attendance charges and additional amount of Rs. 1800/- towards medicines etc. In the opinion of this Court, in addition to what has already been awarded by the Tribunal, the appellant would be entitled to further sum of Rs. 9000/-. The respondents are jointly and severally held liable to pay additional sum of Rs. 9,000/- with 9% interest per annum from the date of application till realization.

6. The appeal to the extent indicated above is allowed. No costs.

[R.S. GARG, J.]

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